

1 SIMON ARON (State Bar No. 108183)  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
2 11400 West Olympic Boulevard, 9<sup>th</sup> Floor  
Los Angeles, California 90064-1582  
3 Telephone: (310) 478-4100  
Facsimile: (310) 479-1422  
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5 Attorneys for Lone Oak Fund, LLC  
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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 In re  
12 BENYAM MULUGETA and PAULA R.  
MULUGETA,  
13 Debtors.  
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Case No. 5:09-bk-51900-ASW

Chapter 11

**NOTICE OF MOTION FOR  
EXPEDITED HEARING ON  
EMERGENCY MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY;  
DECLARATION OF SIMON ARON**

*(Harrison Property)*

Judge: Hon. Arthur S. Weissbrodt  
Crtrm: 3020  
Date: October 26, 2011 (Proposed)  
Time: 2:15 p.m.

Trial Date: None

23 **TO: THE HONORABLE ARTHUR S. WEISSBRODT, UNITED STATES**  
24 **BANKRUPTCY JUDGE:**

25 **COMES NOW** secured creditor, Lone Oak Fund, LLC (“Lone Oak”), and requests  
26 an expedited hearing be held to consider its “Emergency Motion for Relief from the  
27 Automatic Stay” (the “Motion”) due to the failure of debtors and debtors in possession  
28 Benyam Mulugeta and Paula R. Mulugeta (collectively the “Debtors”) to ensure that the

1 property located at 2332 Harrison Street, Oakland, California (the "Harrison Property")  
2 remains adequately insured.

3 The Motion is made pursuant to Federal Rule of Bankruptcy Procedure 4001(a)(2)  
4 and Local Bankruptcy Rule 9006-1, and Sections 362(d)(1) and 362(f) of the Bankruptcy  
5 Code, and asserted the following:

6 A. On October 13, 2011, the Court entered its Order granting relief from the  
7 automatic stay so that Lone Oak could conduct its non-judicial foreclosure sale of the  
8 Harrison Property on November 23, 2011. (Docket #544). The Order further provides that  
9 relief may be granted earlier in the event the Debtors fail to make the adequate protection  
10 payments called for therein.<sup>1</sup> And, the Order also provides that it is subject to review for  
11 "good cause shown." *Id.* Lone Oak submits that the failure to adequate insurance the  
12 Harrison Property constitutes good cause under the Order to grant Lone Oak relief  
13 immediately.

14 B. By letter dated September 16, 2011, counsel to Lone Oak gave Debtors and  
15 their counsel written notice that the failure to maintain insurance coverage on the Harrison  
16 Property was, in Lone Oak's view, independent grounds for the granting relief from the  
17 automatic stay. The Debtors have failed to reinstate the insurance coverage and, as a result,  
18 Lone Oak has been required to obtain a commercial coverage policy for the Harrison  
19 Property and advance the costs of such coverage in the amount of \$10,973.00. **However,**  
20 the coverage obtained by Lone Oak **does not** include liability coverage for the Harrison  
21 Property, the Debtors or the bankruptcy estate. Such coverage would not be provided due  
22 to the Harrison Property's claims history.

23 C. The Debtors allowed the insurance on the Harrison Property to be cancelled  
24 for non-payment, exposing Lone Oak's sole collateral to loss and irreparable harm. This is  
25 the latest example of the Debtors' failure to resuscitate the Harrison Property. This latest  
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27 <sup>1</sup> As of October 15, 2011, the Debtor has failed to make the required adequate protection payment and in in  
28 default under the Order subject to a ten (10) day right to cure.

1 failure however confirms the concerns Lone Oak has had repeatedly expressed over the  
2 deteriorating condition of the Harrison Property. As demonstrated in the Declaration of  
3 Samantha Navarro filed in support of the Motion, claims have been made against the  
4 Harrison Property arising from the failure to comply with applicable housing laws and for  
5 defective conditions including: bed bugs, inoperable elevator, no heat, defective wiring,  
6 inadequate power, unclean common areas, holes in walls, defective plumbing and  
7 dangerous and dirty or unkept floors.” Declaration of Samantha Navarro, at ¶ 7, and  
8 Exhibit “A” thereto.

9 D. Again, there would appear to be little the Debtors can do about these  
10 problems. The fundamental problem is clearly the Harrison Property, its deteriorated  
11 condition and lack of income, which contributes to its lack of repair and maintenance.

12 E. For all of these reasons, it is respectfully requested that this Court grant Lone  
13 Oak an expedited hearing on its Motion so that it can immediately protect its collateral and  
14 pursue its remedies against the Harrison Property.

15 **WHEREFORE**, Lone Oak respectfully requests the Court schedule the hearing on  
16 the Motion for October 26, 2011, at 2:15 p.m.

17  
18 DATED: October 18, 2011

Respectfully submitted,

19 WOLF, RIFKIN, SHAPIRO,  
20 SCHULMAN & RABKIN, LLP

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22 By:   
23 SIMON ARON

24 Attorneys for Lone Oak Fund, LLC  
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# EXHIBIT “A”



LAW OFFICES  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

Simon Aron  
saron@wrslawyers.com

16343-016

September 16, 2011

**VIA ELECTRONIC MAIL AND U.S. MAIL**

Benyam Mulugeta  
Paula R. Mulugeta  
1025 Harker Avenue  
Palo Alto, CA 94301

Marc Voisenat, Esq  
Attorney at Law  
1330 Broadway, Suite 734  
Oakland, CA 94612

Re: In re Benyam & Paula Mulugeta  
Property Address: 2332 Harrison Street, Oakland, California  
Case No. 90-51900-ASW

Dear Mr. & Mrs Mulugeta:

As you know, this office represents the Lone Oak Fund, LLC ("Lone Oak") in connection with the secured loan made to Benyam Mulugeta and Paula R. Mulugeta (the "Debtors") in connection with the above- noted property.

This letter constitutes notice of default pursuant to the Order granting Motion for relief from the automatic stay and for adequate protection (the "Order") placed on the record before the Bankruptcy Court on August 12, 2011. Pursuant to the Order, Lone Oak was to have received a payment in the amount of Thirty-Three Thousand Eight Hundred Seventy-Five (\$33,875.00) Dollars no later than September 15, 2011. No such payments have been received as of August 16, 2011. Accordingly, pursuant to the Order, you have ten (10) calendar days for the date hereof to cure this default under the Order by delivering the full amount to this office to the attention of the undersigned.

In addition, this letter constitutes notice that Debtors have failed to maintain property insurance on the Harrison Property. We believe that such failure constitutes independent grounds for granting immediate relief from the automatic stay. Therefore, within the same ten (10) calendar days, Lone Oak must receive proof of current and enforceable property insurance on the Harrison Property, in which Lone Oak is named as an additional insured. Lone Oak hereby reserves all of its rights in the event the Debtors fail to provide proof of current insurance to Lone Oak within that time period.

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11400 West Olympic Boulevard, 9th Floor, Los Angeles, California 90064-1582  
Tel 310.478.4100 Fax 310.479.1422

www.wrslawyers.com

Benyam Mulugeta  
Paula R. Mulugeta  
September 16, 2011  
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If you have any questions, please do not hesitate to contact me.

Very truly yours,  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP



SIMON ARON

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